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**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

CHAD MYCHAL WIESCINSKI
4566 Orange Street, Apt. #1
Riverside, CA 92501

Respondent.

Case No. 1H-2008-051

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings that the following matters are true:

PARTIES

1. Stephanie Nunez (Complainant) is the Executive Officer of the
Respiratory Care Board of California. She brought this action solely in her official capacity and
is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of
California, by David P. Chan, Deputy Attorney General.

2. Chad Mychal Wiescinski (Respondent) is representing himself in this
proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about January 22, 2008, Respondent filed an application dated
January 18, 2008, with the Respiratory Care Board to obtain a Respiratory Care Practitioner

1 License. The Board denied the application on March 28, 2008. On or about April 7, 2008, the
2 Board received Respondent's letter, dated April 3, 2008, requesting a hearing contesting the
3 denial of his application for licensure.

4 **JURISDICTION**

5 4. Statement of Issues No. 1H-2008-051 was filed before the Respiratory
6 Care Board (Board), Department of Consumer Affairs, and is currently pending against
7 Respondent. A true and correct copy of the Statement of Issues and all other statutorily required
8 documents were properly served on Respondent on May 22, 2008. A true and correct copy of
9 Statement of Issues No. 1H-2008-051 is attached as Exhibit A and incorporated herein by
10 reference.

11 **ADVISEMENT AND WAIVERS**

12 5. Respondent has carefully read, and fully understands the charges and
13 allegations in Statement of Issues No. 1H-2008-051. Respondent has also carefully read, and
14 fully understands the effects of this Stipulated Settlement and Disciplinary Order.

15 6. Respondent is fully aware of his legal rights in this matter, including the
16 right to a hearing on the charges and allegations in the Statement of Issues; the right to be
17 represented by counsel at his own expense; the right to confront and cross-examine the witnesses
18 against him; the right to present evidence and to testify on his own behalf; the right to the
19 issuance of subpoenas to compel the attendance of witnesses and the production of documents;
20 the right to reconsideration and court review of an adverse decision; and all other rights accorded
21 by the California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
23 each and every right set forth above.

24 **CULPABILITY**

25 8. Respondent admits the truth of each and every charge and allegation in
26 Statement of Issues No. 1H-2008-051.

27 9. Respondent agrees that his application for licensure is subject to denial
28 and he agrees to be bound by the Respiratory Care Board's imposition of discipline as set forth in

1 the Disciplinary Order below.

2 **CONTINGENCY**

3 10. This stipulation shall be subject to approval by the Respiratory Care
4 Board. Respondent understands and agrees that counsel for Complainant and the staff of the
5 Respiratory Care Board of California may communicate directly with the Board regarding this
6 stipulation and settlement, without notice to or participation by Respondent. By signing the
7 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
8 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
9 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
10 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
11 action between the parties, and the Board shall not be disqualified from further action by having
12 considered this matter.

13 11. The parties understand and agree that facsimile copies of this Stipulated
14 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
15 force and effect as the originals.

16 12. In consideration of the foregoing admissions and stipulations, the parties
17 agree that the Board may, without further notice or formal proceeding, issue and enter the
18 following Disciplinary Order:

19 **DISCIPLINARY ORDER**

20 IT IS HEREBY ORDERED that Respondent CHAD MYCHAL WIESCINSKI be
21 issued a conditional license to practice respiratory care, which shall be on probation to the Board
22 for a period of two (2) years on the following terms and conditions:

23 1. **WORK SCHEDULES** Respondent shall be required to submit to the
24 probation monitor work schedules on a monthly basis for the length of probation. Respondent
25 shall ensure the Board has a copy of his current work schedule at all times for each place of
26 employment.

27 Failure to submit current work schedules on a continuous basis shall constitute a
28 violation of probation and shall result in the filing of an accusation and/or a petition to revoke

1 probation against Respondent's respiratory care practitioner license.

2 2. ABSTENTION FROM USE OF ANY AND ALL MOOD ALTERING
3 SUBSTANCES Respondent shall completely abstain from the possession or use of alcohol,
4 controlled substances, dangerous drugs, and any and all other mood altering drugs, substances
5 and their associated paraphernalia, except when the drugs are lawfully prescribed by a licensed
6 practitioner as part of a documented medical treatment.

7 Respondent shall execute a release authorizing the release of pharmacy and
8 prescribing records as well as physical and mental health medical records. Respondent shall also
9 provide information of treating physicians, counselors or any other treating professionals as
10 requested by the Board.

11 Respondent shall ensure that he is not in the presence of or in the same physical
12 location as individuals who are using illegal substances, even if Respondent is not personally
13 ingesting the drug(s).

14 Any positive result that registers over the established laboratory cutoff level shall
15 constitute a violation of probation and shall result in the filing of an accusation and/or a petition
16 to revoke probation against Respondent's respiratory care practitioner license.

17 Respondent also understands and agrees that any positive result that registers over
18 the established laboratory cutoff level shall be reported to each of Respondent's employers.

19 3. BIOLOGICAL FLUID TESTING Respondent, at his expense, shall
20 participate in random testing, including, but not limited to, biological fluid testing (i.e. urine,
21 blood, saliva), breathalyzer, hair follicle testing, or a drug screening program approved by the
22 Board. Test costs range from \$21.00 to \$200.00 each. The length of time shall be for the entire
23 probation period. The frequency and location of testing will be determined by the Board.

24 At all times, Respondent shall fully cooperate with the Board or any of its
25 representatives, and shall, when directed, appear for testing as requested and submit to such tests
26 and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other
27 controlled substances.

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1 If Respondent is unable to provide a specimen in a reasonable amount of time
2 from the request, while at the work site, Respondent understands that any Board representative
3 may request from the supervisor, manager or director on duty to observe Respondent in a manner
4 that does not interrupt or jeopardize patient care in any manner until such time Respondent
5 provides a specimen acceptable to the Board.

6 Failure to submit to testing or appear as requested by any Board representative for
7 testing, as directed shall constitute a violation of probation and shall result in the filing of an
8 accusation and/or a petition to revoke probation against Respondent's respiratory care
9 practitioner license.

10 4. RESTRICTION OF PRACTICE Respondent may not be employed or
11 function as a member of a respiratory care management or supervisory staff during the entire
12 length of probation. This includes lead functions.

13 5. SUPERVISOR QUARTERLY REPORTS Supervisor Quarterly Reports
14 of Performance are due for each year of probation and the entire length of probation from each
15 employer, as follows:

16 For the period covering January 1st through March 31st, reports are to be
17 completed and submitted between April 1st and April 7th. For the period covering April 1st
18 through June 30th, reports are to be completed and submitted between July 1st and July 7th. For
19 the period covering July 1st through September 30th, reports are to be completed and submitted
20 between October 1st and October 7th. For the period covering October 1st through December 31st,
21 reports are to be completed and submitted between January 1st and January 7th.

22 Respondent is ultimately responsible for ensuring his employer(s) submits
23 complete and timely reports. Failure to ensure each employer submits complete and timely
24 reports shall constitute a violation of probation.

25 6. OBEY ALL LAWS Respondent shall obey all laws, whether federal,
26 state, or local. Respondent shall also obey all regulations governing the practice of respiratory
27 care in California.

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Respondent shall notify the Board in writing within 14 days of any incident resulting in his arrest, or charges filed against, or a citation issued against Respondent.

7. QUARTERLY REPORTS Respondent shall file quarterly reports of compliance under penalty of perjury, on forms to be provided to the probation monitor assigned by the Board. Omission or falsification in any manner of any information on these reports shall constitute a violation of probation and shall result in the filing of an accusation and/or a petition to revoke probation against Respondent's respiratory care practitioner license.

Quarterly report forms will be provided by the Board. Respondent is responsible for contacting the Board to obtain additional forms if needed. Quarterly reports are due for each year of probation and the entire length of probation as follows:

For the period covering January 1st through March 31st, reports are to be completed and submitted between April 1st and April 7th. For the period covering April 1st through June 30th, reports are to be completed and submitted between July 1st and July 7th. For the period covering July 1st through September 30th, reports are to be completed and submitted between October 1st and October 7th. For the period covering October 1st through December 31st, reports are to be completed and submitted between January 1st and January 7th.

Failure to submit complete and timely reports shall constitute a violation of probation.

8. PROBATION MONITORING PROGRAM Respondent shall comply with requirements of the Board appointed probation monitoring program, and shall, upon reasonable request, report to or appear to a local venue as directed.

Respondent shall claim all certified mail issued by the Board, respond to all notices of reasonable requests timely, and submit Annual Reports, Identification Update reports or other reports similar in nature, as requested and directed by the Board or its representative.

Respondent is encouraged to contact the Board's Probation Program at any time he has a question or concern regarding his terms and conditions of probation.

Failure to appear for any scheduled meeting or examination, or cooperate with the requirements of the program, including timely submission of requested information, shall

1 constitute a violation of probation and will result in the filing of an accusation and/or a petition to
2 revoke probation against Respondent's respiratory care practitioner license.

3 9. PROBATION MONITORING COSTS All costs incurred for probation
4 monitoring during the entire probation shall be paid by the Respondent. Monthly amount is
5 \$100.00. The monthly cost may be adjusted as expenses are reduced or increased. Respondent's
6 failure to comply with all terms and conditions may also cause this amount to be increased.

7 All payments for costs are to be sent directly to the Respiratory Care Board and
8 must be received by the date(s) specified. (Periods of tolling will not toll the probation
9 monitoring costs incurred.)

10 If Respondent is unable to submit costs for any month, he shall be required instead
11 to submit an explanation of why he is unable to submit the costs, and the date(s) he will be able
12 to submit the costs including payment amount(s). Supporting documentation and evidence of
13 why the Respondent is unable to make such payment(s) must accompany this submission.

14 Respondent understands that failure to submit costs timely is a violation of
15 probation and submission of evidence demonstrating financial hardship does not preclude the
16 Board from pursuing further disciplinary action. However, Respondent understands providing
17 evidence and supporting documentation of financial hardship may delay further disciplinary
18 action.

19 In addition to any other disciplinary action taken by the Board, an unrestricted
20 license will not be issued at the end of the probationary period and the respiratory care
21 practitioner license will not be renewed, until such time all probation monitoring costs have been
22 paid.

23 The filing of bankruptcy by Respondent shall not relieve the Respondent of his
24 responsibility to reimburse the Board for costs incurred.

25 10. EMPLOYMENT REQUIREMENT Respondent shall be employed a
26 minimum of 24 hours per week as a respiratory care practitioner for a minimum of 2/3 of his
27 probation period.

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Respondent may substitute successful completion of a minimum of thirty (30) additional continuing education hours, beyond that which is required for license renewal, for each 8 months of employment required. Respondent shall submit proof to the Board of successful completion of all continuing education requirements. Respondent is responsible for paying all costs associated with fulfilling this term and condition of probation.

11. NOTICE TO EMPLOYER Respondent shall be required to inform his employer, and each subsequent employer during the probation period, of the discipline imposed by this decision by providing his supervisor and director and all subsequent supervisors and directors with a copy of the decision and order, and the Statement(s) of Issues or Accusation(s) in this matter prior to the beginning of or returning to employment or within 14 days from each change in a supervisor or director.

If Respondent is employed by or through a registry [and is not restricted from working for a registry], Respondent shall make each hospital or establishment to which he is sent aware of the discipline imposed by this decision by providing his direct supervisor and administrator at each hospital or establishment with a copy of this decision, and the Statement(s) of Issues or Accusation(s) in this matter prior to the beginning of employment. This must be done each time there is a change in supervisors or administrators.

The employer will then inform the Board, in writing, that he is aware of the discipline, on forms to be provided to the Respondent. Respondent is responsible for contacting the Board to obtain additional forms, if needed. All reports completed by the employer must be submitted from the employer directly to the Board.

Respondent shall execute a release authorizing the Board or any of its representatives to review and obtain copies of all employment records and discuss and inquire of the probationary status with any of Respondent's supervisors or directors.

12. CHANGES OF EMPLOYMENT OR RESIDENCE Respondent shall notify the Board, and appointed probation monitor, in writing, of any and all changes of employment, location, and address within 14 days of such change. This includes, but is not limited to, applying for employment, termination or resignation from employment, change in

1 employment status, change in supervisors, administrators or directors.

2 Respondent shall also notify his probation monitor AND the Board IN WRITING
3 of any changes of residence or mailing address within 14 days. P.O. Boxes are accepted for
4 mailing purposes, however the Respondent must also provide his physical residence address as
5 well.

6 13. SURRENDER OF LICENSE Following the effective date of this
7 decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable
8 to satisfy the terms and conditions of probation, he may request the voluntary surrender of his
9 license. The Board reserves the right to evaluate Respondent's request and to exercise its
10 discretion whether or not to grant the request or to take any other action deemed appropriate and
11 reasonable under the circumstances. Upon formal acceptance of the surrender, within 15
12 calendar days Respondent shall deliver his wallet and wall certificate to the Board or its designee
13 and he shall no longer practice respiratory care. Respondent will no longer be subject to the
14 terms and conditions of probation and the surrender of Respondent's license shall be deemed
15 disciplinary action. If Respondent re-applies for a respiratory care license, the application shall
16 be treated as a petition for reinstatement of a revoked license.

17 14. COST RECOVERY Respondent shall pay to the Board a sum not to
18 exceed the costs of the investigation and prosecution of this case. That sum shall be \$2,528.00
19 and shall be paid in full directly to the Board, in equal quarterly payments, within 12 months
20 from the effective date of this decision. Cost recovery will not be tolled.

21 If Respondent is unable to submit costs timely, he shall be required instead to
22 submit an explanation of why he is unable to submit these costs in part or in entirety, and the
23 date(s) he will be able to submit the costs including payment amount(s). Supporting
24 documentation and evidence of why the Respondent is unable to make such payment(s) must
25 accompany this submission.

26 Respondent understands that failure to submit costs timely is a violation of
27 probation, and submission of evidence demonstrating financial hardship does not preclude the
28 Board from pursuing further disciplinary action. However, Respondent understands that

1 providing evidence and supporting documentation of financial hardship may delay further
2 disciplinary action.

3 Consideration to financial hardship will not be given should Respondent violate
4 this term and condition, unless an unexpected AND unavoidable hardship is established from the
5 date of this order to the date payment(s) is due.

6 The filing of bankruptcy by the Respondent shall not relieve the Respondent of his
7 responsibility to reimburse the Board for these costs.

8 15. TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE Periods
9 of residency or practice outside California, whether the periods of residency or practice are
10 temporary or permanent, will toll the probation period, but will not toll the cost recovery
11 requirement, nor the probation monitoring costs incurred. Travel out of California for more than
12 30 days must be reported to the Board in writing prior to departure. Respondent shall notify the
13 Board, in writing, within 14 days, upon his return to California and prior to the commencement
14 of any employment where representation as a respiratory care practitioner is/was provided.

15 16. VALID LICENSE STATUS Respondent shall maintain a current, active
16 and valid license for the length of the probation period. Failure to pay all fees and meet
17 Continuing Education requirements prior to his license expiration date shall constitute a violation
18 of probation.

19 17. VIOLATION OF PROBATION If Respondent violates any term of the
20 probation in any respect, the Board, after giving Respondent notice and the opportunity to be
21 heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to
22 revoke probation is filed against Respondent during probation, the Board shall have continuing
23 jurisdiction and the period of probation shall be extended until the matter is final. No petition for
24 modification of penalty shall be considered while there is an accusation or petition to revoke
25 probation or other penalty pending against Respondent.

26 18. COMPLETION OF PROBATION Upon successful completion of
27 probation, Respondent's license shall be fully restored.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Respiratory Care Practitioner License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Respiratory Care Board.

DATED: August 25, 2008.

Original signed by: _____
CHAD MYCHAL WIESCINSKI
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Respiratory Care Board of the Department of Consumer Affairs.

DATED: August 26, 2008

EDMUND G. BROWN JR., Attorney General
of the State of California

THOMAS S. LAZAR
Supervising Deputy Attorney General

Original signed by: _____
DAVID P. CHAN
Deputy Attorney General

Attorneys for Complainant

**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

CHAD MYCHAL WIESCINSKI
PO Box 186
Loma Linda, CA 92354

Respondent.

Case No. 1H-2008-051

OAH No.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Respiratory Care Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on November 10, 2008.

It is so ORDERED October 28, 2008.

Original signed by: _____

LARRY L. RENNER, BS, RRT, RCP, RPFT
PRESIDENT, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA